

2024 Local Government Election Compliance Approach

Version 1.0

Approved



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Electoral Commissioner

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Version history

Version	Notes	Author	Date of Change
1.0A	Consultation Draft	A/ Director, Funding, Disclosure & Compliance	January 2023
1.0	Approved for use	Director, Funding, Disclosure & Compliance	April 2023

Review

This Policy has been considered to ensure compatibility with the 23 protected rights under the *Human Rights Act 2019* and is deemed compatible.

This Approach is specific to the 2024 local government elections. Reviews will be undertaken as required up to the point election day has passed.

Purpose

The Electoral Commission of Queensland (ECQ) maintains a Compliance and Enforcement Policy for Funding and Disclosure Obligations (the Compliance Policy), which is available on the ECQ's website. The Compliance Policy outlines the ECQ's compliance and enforcement activities and possible responses when working with stakeholders and the public, using collaborative and cooperative approaches to help achieve desired compliance objectives.

This Compliance Approach provides specific detail about what activities the ECQ will be conducting at each stage of the 2024 local government elections, outlines the ECQ's commitments when performing its compliance functions, and sets the ECQ's expectations about how candidates and other electoral participants will conduct themselves and engage with the ECQ.

This Compliance Approach should be read in conjunction with the Compliance Policy.

The ECQ's role

Queensland's electoral laws are designed to ensure and reinforce the transparent and equitable conduct of elections of councillors (including mayors) of Queensland's local governments. One of the ECQ's functions is to administer and promote compliance with the funding and disclosure provisions in the *Local Government Electoral Act 2011*.

An important part of delivering on these objectives is to monitor compliance with the rules and regulations which apply to local government elections and to undertake enforcement action when necessary.

The ECQ also engages in post-election compliance reviews. These compliance reviews are informed by risk, and involve the ECQ contacting candidates, registered political parties and other stakeholders to provide information or clarification about potential issues with their election disclosures (or non-disclosures). Compliance reviews may result in warning letters, fines, or prosecutions.

The ECQ does **not regulate**:

- issues involving the councillor code of conduct, caretaker conventions, or use of council property during the election period.
- decisions of councillors made in their capacity as elected officials.
- the behaviour or conduct of candidates or their workers.¹
- content of political advertising (other than ensuring proper authorisation).²
- the placement of signs on roads, private property, etc.
- complaints about corrupt conduct.

¹ The ECQ has a limited remit to address issues where a person is engaging in improper practices affecting the election (e.g. obstructing a person from voting).

² The ECQ has a limited remit to address issues if advertising material is intended or likely to mislead an elector about the ways of voting (including inducing an elector to cast an informal vote), or where a person knowingly publishes a false statement of fact about the personal character or conduct of a candidate for the purposes of affecting the election of that candidate.

Context of the 2024 local elections

It is expected that expenditure caps will be applicable for the 2024 local government elections. While the expenditure caps themselves will be new, the underlying funding and disclosure framework – particularly for candidates – has not changed in any substantial manner since the reforms introduced in 2020. For example:

- Timeframes for disclosing gifts/donations received have not changed since January 2020.
- The requirement to disclose electoral expenditure and the associated disclosure timeframes have been in place since January 2020.
- The ban on donations from property developers has been in place since October 2018.
- The requirement to provide an election summary return (in various forms) has been in place since 2011.
- The requirement for candidates to use a dedicated bank account for their election campaign has been in place since 2011.

This consistency in the underlying laws presents significant opportunities for the ECQ to work with stakeholders to improve compliance during the 2024 local government elections. Equally, the ECQ expects repeat candidates – particularly those who contest both the 2020 and 2024 elections – to continue to comply with their obligations. If non-compliance was identified in previous elections, the ECQ expects candidates to improve their voluntarily compliance.

If a person or entity has previously been prosecuted or issued a fine or warning letter, the ECQ expects that they will not commit the same offence (or offences) again in 2024. If this does eventuate, the ECQ will likely undertake stronger enforcement action (such as issuing fines instead of a warning letter or undertaking prosecution).

Promoting compliance and responding to non-compliance

The ECQ is committed to ensuring that all electoral participants who want to voluntarily comply are able to do so. The ECQ does this by providing reasonable assistance with the use of systems, providing direct guidance to participants, publishing educational material, and ensuring systems contain functionality to enable compliance.

The focus of the ECQ’s resources will vary depending on the election phase, as outlined below:

Election phase	Focus of resources
Before notice of election	<ul style="list-style-type: none"> • Educating candidates (and their agents) who announce or indicate an intention to contest the local elections.
Election period (starting on the day the notice of election is issued, ending at close of polls)	<ul style="list-style-type: none"> • Addressing notifications about failure to authorise election material. • Managing notifications of non-compliance impacting the integrity of the election or transparency of election participants’ election funding or expenditure. • Monitoring for compliance with electoral expenditure caps (based on real-time disclosure data). • Conducting targeted education opportunities.

Election phase	Focus of resources
Post-election day (election summary return period)	<ul style="list-style-type: none"> • Assisting candidates to comply with their election summary return requirements. • Issuing fines for failure to lodge an election summary return (after election summary return due date). • Prioritising compliance reviews of elected candidates. • Monitoring for non-compliance which can be identified through the election summary return process.
2024 election compliance review program	<ul style="list-style-type: none"> • Checking for full and complete disclosure of electoral expenditure incurred, and gifts/loans received. • Identifying incorrect use of dedicated bank accounts. • Third party (donor) disclosure compliance program (prioritising large donations and frequent donors).
Entire period	<ul style="list-style-type: none"> • Dealing with any matter involving alleged group campaign activity, donations from property developers, or third-party campaigners. • Issuing fines, warning letters, or commencing prosecutions (as appropriate) for non-compliance identified as a result of compliance activities.

During an election event, the ECQ will likely receive a large number of notifications about potential non-compliance. The issues will vary in complexity, significance, and overall impact on the integrity of the election, and must be prioritised accordingly. While all notifications about non-compliance will be reviewed, the ECQ cannot commit to resolving all reports of non-compliance before election day.

The ECQ will consider reports of non-compliance and work to resolve those deemed a priority. When reviewing reports, consideration will be given to whether the report includes appropriate evidence, such as real-time photographs and/or video (e.g. of unauthorised election material), correspondence, statutory declarations, etc. Reports of non-compliance based on conjecture or hearsay will generally not be prioritised. Reports which are complex and likely to require thorough investigation will naturally take longer to resolve, most likely after election day.

The ECQ generally treats compliance matters confidentially. Any person who reports non-compliance should not expect to be notified of the specifics of the outcome of their report (as per the *Information Privacy Act 2009*).

Case studies

Case study 1 – Failure to complete disclosures

A candidate for the 2020 elections failed to disclose roughly \$39,000 in electoral expenditure by the due dates. Instead, the candidate disclosed each transaction in May 2020, after election day. The candidate was issued \$3,192 in fines for failing to comply, which they paid.

Case study 2 – Failure to use dedicated bank account

A candidate for the 2020 elections failed to use their dedicated bank account, instead using “cash in a tin” to pay for electoral expenditure. The candidate also did not disclose these transactions

until contacted by the ECQ. The candidate was prosecuted, resulting in a fine of \$1,200, plus paid the ECQ \$1,200 in legal fees.

Case study 3 – Failure to comply by group agent

An agent for a group of candidates failed to comply with their disclosure obligations by disclosing 17 items of electoral expenditure by the due dates. Even though the agent was not a candidate for election themselves, the agent was personally liable for over \$1,000 in fines.

Case study 4 – Failure to authorise election material

A third-party campaigner failed to authorise election material published on social media during the 2020 election period. The ECQ contacted the third party and sought for an authorisation to be added to the materials. The third-party failed to comply with these requests and was issued a fine for each instance of publication.